



February 13, 2002

---

---

## ENGROSSED HOUSE BILL No. 1171

---

DIGEST OF HB 1171 (Updated February 12, 2002 1:42 PM - DI 52)

**Citations Affected:** IC 13-11; IC 13-17; IC 16-41; IC 34-30; noncode.

**Synopsis:** Lead-based paint. Sets the times for expiration and renewal of lead-based paint activities licenses and adjusts training requirements for licensure. Provides for the licensing and training of clearance examiners. With an exception for certain homeowners, prohibits the use of certain methods to remove lead-based paint and requires that removed paint be discarded. Requires a laboratory that tests the blood of certain children for lead to report the test results to the state department of health. Requires information that is gathered concerning the concentration of lead in the blood of children less than seven years of age to be shared among certain federal, state, and local government agencies.

**Effective:** July 1, 2002; July 1, 2003.

---

---

### Avery, Atterholt, Porter, Thompson

(SENATE SPONSORS — GARD, BRODEN)

---

---

January 9, 2002, read first time and referred to Committee on Environmental Affairs.  
January 22, 2002, amended, reported — Do Pass.  
January 29, 2002, read second time, amended, ordered engrossed.  
January 30, 2002, engrossed.  
January 31, 2002, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 5, 2002, read first time and referred to Committee on Environmental Affairs.  
February 12, 2002, amended, reported favorably — Do Pass.

---

---

C  
o  
p  
y

EH 1171—LS 6315/DI 52+



February 13, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## ENGROSSED HOUSE BILL No. 1171

---

A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 13-11-2-36.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2002]: **Sec. 36.5. "Component", for purposes**  
4 **of IC 13-17-14, has the meaning set forth in 24 CFR 35.110, as in**  
5 **effect July 1, 2002.**

6       SECTION 2. IC 13-17-14-3 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A person that  
8 engages in lead-based paint activities must obtain a license under this  
9 chapter and under rules adopted by the board under section 5 of this  
10 chapter. **Lead-based paint activities licenses expire as follows:**

11           **(1) On June 30, 2004, if issued before July 1, 2002.**  
12           **(2) Three (3) years after the date of issuance, if issued after**  
13           **June 30, 2002.**

14       (b) A person may receive a lead-based paint activities license under  
15 this chapter for the following disciplines:

16           (1) Inspector.  
17           (2) Risk assessor.

EH 1171—LS 6315/DI 52+



C  
o  
p  
y

- (3) Project designer.
- (4) Supervisor.
- (5) Abatement worker.
- (6) Contractor.

(c) **A person may receive a clearance examiner license under this chapter. A person that engages in the clearance of nonabatement activities under 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002, must obtain a clearance examiner license under this chapter and under rules adopted by the board under section 5 of this chapter. A clearance examiner license expires three (3) years after the date of issuance.**

(d) A person that enters into a contract requiring the person to execute for compensation lead-based paint activities shall hold a lead-based paint activities contractor's license.

~~(d)~~ (e) A person ~~shall~~ **must**:

(1) take required training and pass an examination provided in a lead-based paint training course **or clearance examiner training course, as appropriate**, approved by the department;

(2) **for a license in the discipline of:**

- (A) **inspector;**
- (B) **risk assessor;**
- (C) **project designer; or**
- (D) **supervisor;**

pass an examination provided by the department or a third party as required by rules adopted by the board under section 5 of this chapter; and

(3) meet any requirements established by rules adopted by the board under section 5 of this chapter;

before a person may receive a lead-based paint activities license **or clearance examiner license.**

~~(e)~~ (f) The department may issue a license for a position listed under subsection (b) **or (c)** if the applicant submits proof to the department that the applicant satisfies the training, examination, and other requirements for the license under this chapter.

~~(f)~~ (g) **A lead-based paint activities license or a clearance examiner license may be renewed for a period of three (3) years. To renew a license**, a person who holds a license for a position listed in subsection (b) **or (c)** must complete ~~periodic~~ refresher training and pass any re-examination required by rules adopted under section 5 of this chapter.

~~(g)~~ (h) A lead-based paint activities contractor licensed under this chapter may not allow an agent or employee of the contractor to:

C  
O  
P  
Y



- (1) exercise control over a lead-based paint activities project;
  - (2) come into contact with lead-based paint; or
  - (3) engage in lead-based paint activities;
- unless the agent or employee is licensed under this chapter.

~~(h)~~ **(i)** A person engaging in lead-based paint activities shall comply with the work practice standards established in rules adopted by the board under section 5 of this chapter **and the applicable work practice standards established in section 12 of this chapter** for performing the appropriate lead-based paint activities.

SECTION 3. IC 13-17-14-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4.5. (a) A clearance examiner training program must meet requirements specified in rules adopted by the board under section 5 of this chapter before providing initial or refresher training to a person seeking a license under section 3(c) of this chapter.**

**(b) The department may approve a clearance examiner training course offered as part of a program that satisfies the requirements of subsection (a).**

**(c) A clearance examiner training course must be conducted by an instructor approved by the department as provided in the rules adopted by the board under section 5 of this chapter.**

SECTION 4. IC 13-17-14-5, AS AMENDED BY P.L.111-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 5. (a) The board shall adopt rules under IC 4-22-2 and IC 13-14-9 to implement this chapter. The rules must contain at least the elements required to receive program authorization under 40 CFR 76, Subpart L, 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:**

**(1) Establish minimum requirements for the issuance of a license for:**

**(A)** lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; **and**

**(B) clearance examiners.**

**(2) Establish minimum requirements for approval of the providers of:**

**(A)** lead-based paint activities training courses; **and**

**(B) clearance examiner training courses.**

**(3) Establish minimum qualifications for:**

**(A)** lead-based paint activities training course instructors; **and**

**(B) clearance examiner training course instructors.**



C  
o  
p  
y

(4) Extend the applicability of the licensing requirements to other facilities as determined necessary by the board.

(5) Establish work practice standards.

(6) Establish a department or third-party examination process.

(7) Identify activities, if any, that are exempted from licensing requirements.

(8) Establish a fee of not more than one hundred fifty dollars (\$150) per person, per license, ~~per year~~ **for the period the license is in effect** for a person seeking a license under section 3 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(9) Establish a fee of not more than one thousand dollars (\$1,000) per course, per year, for a lead-based paint training program seeking approval of a lead-based paint training course under section 4 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

**(10) Establish a fee of not more than one thousand dollars (\$1,000) per course, per year, for a clearance examiner training program seeking approval of a clearance examiner training course under section 4.5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:**

**(A) A state.**

**(B) A municipal corporation (as defined in IC 36-1-2-10).**

**(C) A unit (as defined in IC 36-1-2-23).**

**(D) An organization exempt from income taxation under 26 U.S.C. 501(a).**

(b) The amount of the fees under subsection (a) may not be more than is necessary to recover the cost of administering this chapter.

(c) The proceeds of the fees under subsection (a) must be deposited in the lead trust fund established by section 6 of this chapter.

**(d) The minimum requirements established under subsection (a)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified**

C  
o  
p  
y



1 **risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv),**  
 2 **as in effect July 1, 2002.**

3 SECTION 5. IC 13-17-14-11 IS AMENDED TO READ AS  
 4 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The  
 5 commissioner may under IC 4-21.5 reprimand, suspend, or revoke the  
 6 license of a **clearance examiner or a** lead-based paint activities  
 7 inspector, risk assessor, project designer, supervisor, worker, or  
 8 contractor for any of the following reasons:

9 (1) Violating any requirements of this chapter or rules adopted  
 10 under this chapter.

11 (2) Fraudulently or deceptively obtaining or attempting to obtain  
 12 a license under this chapter.

13 (3) Failing to meet the qualifications for a license or failing to  
 14 comply with the requirements of air pollution control laws or  
 15 rules adopted by the board.

16 (4) Failing to meet an applicable federal or state standard for  
 17 lead-based paint activities.

18 (b) The commissioner may under IC 4-21.5 reprimand a lead-based  
 19 paint activities contractor or suspend or revoke the license of a  
 20 lead-based paint activities contractor that employs a person who is not  
 21 licensed under this chapter for a purpose that requires the person to  
 22 hold a license issued under this chapter.

23 (c) The commissioner may under IC 4-21.5 revoke the approval of  
 24 a **clearance examiner or a** lead-based paint activities training course  
 25 for any of the following reasons:

26 (1) Violating any requirement of this chapter.

27 (2) Falsifying information on an application for approval.

28 (3) Misrepresenting the extent of a training course's approval.

29 (4) Failing to submit required information or notifications in a  
 30 timely manner.

31 (5) Failing to maintain required records.

32 (6) Falsifying approval records, instructor qualifications, or other  
 33 approval information.

34 SECTION 6. IC 13-17-14-12 IS ADDED TO THE INDIANA  
 35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JULY 1, 2002]: **Sec. 12. (a) This section applies to:**

37 **(1) remodeling, renovation, and maintenance activities at**  
 38 **target housing and child occupied facilities built before 1960;**  
 39 **and**

40 **(2) lead-based paint activities.**

41 **(b) This section does not apply to an individual who performs**  
 42 **remodeling, renovation, or maintenance activities within a**

C  
o  
p  
y



residential dwelling that the individual owns, unless the residential dwelling is occupied:

(1) while the activities are being performed, by an individual other than the owner or a member of the owner's immediate family; or

(2) by a child who:

(A) is less than seven (7) years of age or an age specified in rules adopted by the board under section 5 of this chapter; and

(B) resides in the building and has been identified as having an elevated blood lead level.

(c) A person not exempted under subsection (b) from the application of this section that performs an activity under subsection (a) that disturbs:

(1) exterior painted surfaces of more than twenty (20) square feet;

(2) interior painted surfaces of more than two (2) square feet in any one (1) room or space; or

(3) more than ten percent (10%) of the combined interior and exterior painted surface area of components of the building;

shall meet the requirements of subsections (e), (f), and (g).

(d) For purposes of this section, paint is considered to be lead-based paint unless the absence of lead in the paint has been determined by a lead-based paint inspection conducted under this chapter.

(e) A person may not use any of the following methods to remove lead-based paint:

(1) Open flame burning or torching.

(2) Machine sanding or grinding without high efficiency particulate air local exhaust control.

(3) Abrasive blasting or sandblasting without high efficiency particulate air local exhaust control.

(4) A heat gun that:

(A) operates above one thousand one hundred (1,100) degrees Fahrenheit; or

(B) chars the paint.

(5) Dry scraping, except:

(A) in conjunction with a heat gun; or

(B) within one (1) foot of an electrical outlet.

(6) Dry sanding, except within one (1) foot of an electrical outlet.

(f) In a space that is not ventilated by the circulation of outside



1 air, a person may not strip lead-based paint using a volatile  
 2 stripper that is a hazardous chemical under 29 CFR 1910.1200, as  
 3 in effect July 1, 2002.

4 (g) A person conducting activities under subsection (a) on  
 5 painted exterior surfaces may not allow visible paint chips or  
 6 painted debris that contains lead-based paint to remain on the soil,  
 7 pavement, or other exterior horizontal surface for more than  
 8 forty-eight (48) hours after the surface activities are complete.

9 SECTION 7. IC 16-41-8-1 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as  
 11 provided in subsections (d) and (e) and IC 16-41-39.4-4, a person may  
 12 not disclose or be compelled to disclose medical or epidemiological  
 13 information involving a communicable disease or other disease that is  
 14 a danger to health (as defined under rules adopted under IC 16-41-2-1).  
 15 This information may not be released or made public upon subpoena  
 16 or otherwise, except under the following circumstances:

17 (1) Release may be made of medical or epidemiologic information  
 18 for statistical purposes if done in a manner that does not identify  
 19 an individual.

20 (2) Release may be made of medical or epidemiologic information  
 21 with the written consent of all individuals identified in the  
 22 information released.

23 (3) Release may be made of medical or epidemiologic information  
 24 to the extent necessary to enforce public health laws, laws  
 25 described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9  
 26 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23,  
 27 IC 35-38-1-7.1, and IC 35-42-1-7, or to protect the health or life  
 28 of a named party.

29 (b) Except as provided in subsection (a), a person responsible for  
 30 recording, reporting, or maintaining information required to be reported  
 31 under IC 16-41-2 who recklessly, knowingly, or intentionally discloses  
 32 or fails to protect medical or epidemiologic information classified as  
 33 confidential under this section commits a Class A misdemeanor.

34 (c) In addition to subsection (b), a public employee who violates this  
 35 section is subject to discharge or other disciplinary action under the  
 36 personnel rules of the agency that employs the employee.

37 (d) Release shall be made of the medical records concerning an  
 38 individual to the individual or to a person authorized in writing by the  
 39 individual to receive the medical records.

40 (e) An individual may voluntarily disclose information about the  
 41 individual's communicable disease.

42 (f) The provisions of this section regarding confidentiality apply to

C  
o  
p  
y





information obtained under IC 16-41-1 through IC 16-41-16.

SECTION 8. IC 16-41-39.4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The state department may adopt rules under IC 4-22-2 to implement this ~~section~~ **chapter**.

SECTION 9. IC 16-41-39.4-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 3. A person that examines the blood of a child less than seven (7) years of age for the presence of lead must report to the state department the results of the examination not later than one (1) week after completing the examination. The report must include at least the following:**

- (1) With respect to the child whose blood is examined:**
  - (A) the name;**
  - (B) the date of birth;**
  - (C) the gender;**
  - (D) the race; and**
  - (E) any other information that is required to be included to qualify to receive federal funding.**
- (2) With respect to the examination:**
  - (A) the date;**
  - (B) the type of blood test performed;**
  - (C) the person's normal limits for the test;**
  - (D) the results of the test; and**
  - (E) the person's interpretation of the results of the test.**
- (3) The names, addresses, and telephone numbers of:**
  - (A) the person; and**
  - (B) the attending physician, hospital, clinic, or other specimen submitter.**

SECTION 10. IC 16-41-39.4-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4. (a) Notwithstanding IC 16-41-8-1, the state department, the family and social services administration, and local health departments shall share among themselves and with the federal Department of Health and Human Services information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.**

**(b) Notwithstanding IC 16-41-8-1, the state department, the family and social services administration, and local health**



1 departments shall share information described in subsection (a)  
2 that is gathered after July 1, 2002, with organizations that  
3 administer state and local programs covered by the United States  
4 Department of Housing and Urban Development regulations  
5 concerning lead-based paint poisoning prevention in certain  
6 residential structures under 24 CFR Subpart A, Part 35 to ensure  
7 that children potentially affected by lead-based paint and lead  
8 hazards are adequately protected from lead poisoning.

9 (c) A person who shares data under this section is not liable for  
10 any damages caused by compliance with this section.

11 SECTION 11. IC 34-30-2-83.3 IS ADDED TO THE INDIANA  
12 CODE AS A NEW SECTION TO READ AS FOLLOWS  
13 [EFFECTIVE JULY 1, 2002]: **Sec. 83.3. IC 16-41-39.4-4 (Concerning**  
14 **sharing information involving the concentration of lead in the**  
15 **blood of children less than seven (7) years of age).**

16 SECTION 12. [EFFECTIVE JULY 1, 2002] (a) Before July 1,  
17 2003, the air pollution control board shall amend 326 IAC 23 to  
18 reflect this act.

19 (b) This SECTION expires July 1, 2003.

C  
o  
p  
y



# COMMITTEE REPORT

Mr. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 1, strike "periodic".

Page 7, line 19, delete "2002" and insert "2003".

Page 7, line 25, after "name;" insert "**and**".

Page 7, line 26, delete "; and" and insert ".".

Page 7, delete line 27.

Delete page 8.

and when so amended that said bill do pass.

(Reference is to HB 1171 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 13, nays 1.

C  
o  
p  
y



## HOUSE MOTION

Mr. Speaker: I move that House Bill 1171 be amended to read as follows:

Page 7, between lines 13 and 14, begin a new paragraph and insert:  
 "SECTION 7. IC 16-41-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) Except as provided in subsections (d) and (e) **and IC 16-41-39.4-4**, a person may not disclose or be compelled to disclose medical or epidemiological information involving a communicable disease or other disease that is a danger to health (as defined under rules adopted under IC 16-41-2-1). This information may not be released or made public upon subpoena or otherwise, except under the following circumstances:

(1) Release may be made of medical or epidemiologic information for statistical purposes if done in a manner that does not identify an individual.

(2) Release may be made of medical or epidemiologic information with the written consent of all individuals identified in the information released.

(3) Release may be made of medical or epidemiologic information to the extent necessary to enforce public health laws, laws described in IC 31-37-19-4 through IC 31-37-19-6, IC 31-37-19-9 through IC 31-37-19-10, IC 31-37-19-12 through IC 31-37-19-23, IC 35-38-1-7.1, and IC 35-42-1-7, or to protect the health or life of a named party.

(b) Except as provided in subsection (a), a person responsible for recording, reporting, or maintaining information required to be reported under IC 16-41-2 who recklessly, knowingly, or intentionally discloses or fails to protect medical or epidemiologic information classified as confidential under this section commits a Class A misdemeanor.

(c) In addition to subsection (b), a public employee who violates this section is subject to discharge or other disciplinary action under the personnel rules of the agency that employs the employee.

(d) Release shall be made of the medical records concerning an individual to the individual or to a person authorized in writing by the individual to receive the medical records.

(e) An individual may voluntarily disclose information about the individual's communicable disease.

(f) The provisions of this section regarding confidentiality apply to information obtained under IC 16-41-1 through IC 16-41-16."

Page 7, line 25, delete "and".

Page 7, line 26, delete "." and insert ";".

Page 7, between lines 26 and 27, begin a new line double block

C  
O  
P  
Y

EH 1171—LS 6315/DI 52+



indented and insert:

**"(C) the gender;  
(D) the race; and  
(E) any other information that is required to be included to qualify to receive federal funding."**

Page 7, between lines 36 and 37, begin a new paragraph and insert:

**"SECTION 10. IC 16-41-39.4-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) Notwithstanding IC 16-41-8-1, information, including a child's name, address, and demographic information, that is gathered after January 1, 1990, concerning the concentration of lead in the blood of a child less than seven (7) years of age shall be shared with:**

- (1) the federal Department of Health and Human Services;**
- (2) the state department;**
- (3) the family and social services administration; and**
- (4) local health departments;**

**to determine the prevalence and distribution of lead poisoning in children less than seven (7) years of age.**

**(b) Notwithstanding IC 16-41-8-1, information described in subsection (a) that is gathered after July 1, 2002, shall be shared with organizations that administer state and local programs covered by the United States Department of Housing and Urban Development regulations concerning lead-based paint poisoning prevention in certain residential structures under 24 CFR Subpart A, Part 35 to ensure that children potentially affected by lead-based paint and lead hazards are adequately protected from lead poisoning.**

**(c) A person who shares data under this section is not liable for any damages caused by compliance with this section.**

**SECTION 11. IC 34-30-2-83.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 83.3. IC 16-41-39.4-4 (Concerning sharing information involving the concentration of lead in the blood of children less than seven (7) years of age )."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1171 as printed January 23, 2002.)

AVERY



## COMMITTEE REPORT

Mr. President: The Senate Committee on Environmental Affairs, to which was referred House Bill No. 1171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 12 through 13.

Page 1, line 14, before "Three", delete "(3)" and insert "(2)".

Page 1, line 14, delete "issuance of a license based" and insert **"issuance,"**.

Page 1, line 15, delete "on a renewal application,".

Page 2, line 12, delete "as follows:" and insert **"three (3) years after the date of issuance."**

Page 2, delete lines 13 through 16.

Page 4, line 13, strike "per year" and insert **"for the period the license is in effect"**.

Page 8, line 37, after "IC 16-41-8-1," insert **"the state department, the family and social services administration, and local health departments shall share among themselves and with the federal Department of Health and Human Services"**.

Page 8, line 40, delete "shall be shared with:".

Page 8, delete lines 41 through 42.

Page 9, delete lines 1 through 2.

Run in page 8, line 40 through page 9, line 3.

Page 9, line 5, after "IC 16-41-8-1," insert **"the state department, the family and social services administration, and local health departments shall share"**.

Page 9, line 6, delete "shall be shared".

and when so amended that said bill do pass.

(Reference is to HB 1171 as reprinted January 30, 2002.)

GARD, Chairperson

Committee Vote: Yeas 8, Nays 0.

C  
o  
p  
y

